

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

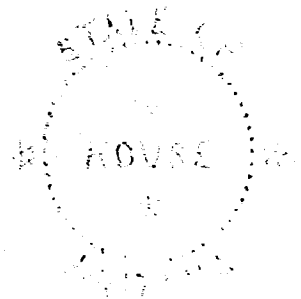
CHAPTER 152

**SENATE BILL 1067**

AN ACT

AMENDING SECTIONS 36-881 AND 36-882, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-889; RELATING TO CHILD CARE FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-881, Arizona Revised Statutes, is amended to read:

36-881. Definitions

In this article, unless the context otherwise requires:

1. "Child" means any person through the age of fourteen years. Child also means a person who is under eighteen years of age if the child has a developmental disability as defined in section 36-551 or has at least one of the disabilities listed in section 15-761, paragraph 2 and requires special education as defined in section 15-761.

2. "Child care" means the care, supervision and guidance of a child or children, unaccompanied by a parent, guardian or custodian, on a regular basis, for periods of less than twenty-four hours per day, in a place other than the child's or the children's own home or homes.

3. "Child care facility" means any facility in which child care is regularly provided for compensation for five or more children not related to the proprietor.

4. "CONTROLLING PERSON" MEANS A PERSON WHO:

(a) HAS THROUGH OWNERSHIP, THE POWER TO VOTE AT LEAST TEN PER CENT OF THE OUTSTANDING VOTING SECURITIES.

(b) IF THE APPLICANT OR LICENSEE IS A PARTNERSHIP, IS THE GENERAL PARTNER OR A LIMITED PARTNER WHO HOLDS AT LEAST TEN PER CENT OF THE VOTING RIGHTS OF THE PARTNERSHIP.

(c) IF THE APPLICANT OR LICENSEE IS A CORPORATION, AN ASSOCIATION OR A LIMITED LIABILITY COMPANY, IS THE PRESIDENT, THE CHIEF EXECUTIVE OFFICER, THE INCORPORATOR, AN AGENT OR ANY PERSON WHO OWNS OR CONTROLS AT LEAST TEN PER CENT OF THE VOTING SECURITIES.

(d) HOLDS A BENEFICIAL INTEREST IN TEN PER CENT OR MORE OF THE LIABILITIES OF THE APPLICANT OR THE LICENSEE.

~~4-~~ 5. "Department" means the department of health services.

~~5-~~ 6. "Director" means the director of the department of health services.

~~6-~~ 7. "Person" means an individual, partnership, corporation, limited liability company, association, day nursery, nursery school, day camp, kindergarten, child care agency, school governing board, charter school or child care center that operates a child care facility.

~~7-~~ 8. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of an applicant for licensure or a licensed child care facility does not pose a direct risk to the life, health or safety of children.

Sec. 2. Section 36-882, Arizona Revised Statutes, is amended to read:

36-882. License; posting; transfer prohibited; fee

A. A child care facility shall not receive any child for care, supervision or training unless the facility is licensed by the department of health services.

1           B. An application for a license shall be made on a form prescribed by  
2 the department and shall include all information required by the department  
3 and INCLUDING:

4           1. THE NAME AND BUSINESS OR RESIDENTIAL ADDRESS OF EACH CONTROLLING  
5 PERSON AND AN AFFIRMATION BY THE APPLICANT THAT NO CONTROLLING PERSON HAS  
6 BEEN DENIED A CERTIFICATE TO OPERATE A CHILD CARE GROUP HOME OR A LICENSE TO  
7 OPERATE A CHILD CARE FACILITY FOR THE CARE OF CHILDREN IN THIS STATE OR  
8 ANOTHER STATE OR HAS HAD A LICENSE TO OPERATE A CHILD CARE FACILITY OR A  
9 CERTIFICATE TO OPERATE A CHILD CARE GROUP HOME REVOKED FOR REASONS THAT  
10 RELATE TO THE ENDANGERMENT OF THE HEALTH AND SAFETY OF CHILDREN.

11           2. The names and addresses of the owners and lessees of any  
12 agricultural land within one-fourth mile of the facility. Within ten days  
13 of receipt of an application for a license, the department shall notify the  
14 owners and lessees of agricultural land, as listed on the application.

15           C. On application for a license the department shall investigate the  
16 applicant's physical space, activities and standards of care. If the  
17 department is satisfied that the applicant and the applicant's facility are  
18 in substantial compliance with the requirements of this article and the  
19 facility agrees to carry out a plan acceptable to the director to eliminate  
20 any deficiencies, the department shall issue a regular license. If the  
21 facility's director changes, the department may require the regular license  
22 to revert to a provisional license for a period of not to exceed six  
23 months. The department shall issue a regular license on satisfactory  
24 completion of the provisional period for the remainder of the licensure  
25 period. The department may issue a provisional license for a period not to  
26 exceed six months to a child care facility that is temporarily unable to  
27 maintain substantial compliance to the established standards and does not  
28 threaten the health or safety of children. A provisional license shall state  
29 the reason for provisional status.

30           D. The department shall deny any license that affects agricultural  
31 land regulated pursuant to section 3-365, except that the owner of the  
32 agricultural land may agree to comply with the buffer zone requirements of  
33 section 3-365. If the owner agrees in writing to comply with the buffer zone  
34 requirements and records the agreement in the office of the county recorder  
35 as a restrictive covenant running with the title to the land, the department  
36 may license the child care facility to be located within the affected buffer  
37 zone. The agreement may include any stipulations regarding the child care  
38 facility, including conditions for future expansion of the facility and  
39 changes in the operational status of the facility that will result in a  
40 breach of the agreement. This subsection shall not apply to the issuance or  
41 renewal of a license for a child care facility located in the same location  
42 for which a child care facility license was previously issued.

43           E. An applicant for a license shall submit the notarized form required  
44 pursuant to section 36-883.02 with the application and shall have a valid

1 class one or class two fingerprint clearance card issued pursuant to title  
2 41, chapter 12, article 3.1.

3 F. The fee for an initial application for licensure is one hundred  
4 fifty dollars and is not refundable. The application fee is for the first  
5 full licensure period including any provisional period. The application fee  
6 for renewal of a license is one hundred fifty dollars and is not refundable.  
7 An applicant for renewal who fails to submit the application forty-five days  
8 before the expiration of the license is subject to a fifty dollar late filing  
9 fee. The department shall deposit, pursuant to sections 35-146 and 35-147,  
10 late filing fees in the state general fund.

11 G. A license is valid for three years from the date of issuance and  
12 shall specify the following:

- 13 1. The name of the applicant.
- 14 2. The exact address where the applicant will locate the facility.
- 15 3. The maximum number and age limitations of children that shall be  
16 cared for at any one time.
- 17 4. The classification of services that the facility is licensed to  
18 provide.

19 H. The licensee shall notify the department in writing within ten days  
20 of any change in the child care facility's director.

21 I. The license is not transferable from person to person and is valid  
22 only for the quarters occupied at the time of issuance.

23 J. The license shall be conspicuously posted in the child care  
24 facility.

25 K. The licensee shall conspicuously post a schedule of fees charged  
26 for services and the established policy for a refund of fees for services not  
27 rendered.

28 L. The licensee shall keep current department inspection reports at  
29 the child care facility and shall make them available to parents on request.  
30 The licensee shall conspicuously post a notice that identifies the location  
31 where these inspection reports are available for review.

32 M. The department of health services shall notify the department of  
33 public safety if the department of health services receives credible evidence  
34 that a licensee who possesses a valid class one or class two fingerprint  
35 clearance card either:

36 1. Is arrested for or charged with an offense listed in section  
37 41-1758.03, subsection B or F.

38 2. Falsified information on the form required by subsection E of this  
39 section.

40 Sec. 3. Title 36, chapter 7.1, article 1, Arizona Revised Statutes,  
41 is amended by adding section 36-889, to read:

42 36-889. Licensees; applicants; residency; controlling persons;  
43 requirements

44 A. EACH LICENSEE, OTHER THAN A CORPORATION, A LIMITED LIABILITY  
45 COMPANY, AN ASSOCIATION OR A PARTNERSHIP, SHALL BE A CITIZEN OF THE UNITED

1 STATES WHO IS A RESIDENT OF THIS STATE, OR A LEGAL RESIDENT ALIEN WHO IS A  
2 RESIDENT OF THIS STATE. A CORPORATION, ASSOCIATION OR LIMITED LIABILITY  
3 COMPANY SHALL BE A DOMESTIC ENTITY OR A FOREIGN ENTITY THAT IS QUALIFIED TO  
4 DO BUSINESS IN THIS STATE. A PARTNERSHIP SHALL HAVE AT LEAST ONE PARTNER WHO  
5 IS A CITIZEN OF THE UNITED STATES AND WHO IS A RESIDENT OF THIS STATE, OR WHO  
6 IS A LEGAL RESIDENT ALIEN AND WHO IS A RESIDENT OF THIS STATE.

7 B. THE DEPARTMENT SHALL NOT ISSUE OR RENEW A LICENSE UNLESS A LIST OF  
8 EACH OF THE APPLICANT'S OR LICENSEE'S CONTROLLING PERSONS IS ON FILE WITH THE  
9 DEPARTMENT AND NO CONTROLLING PERSON HAS BEEN DENIED A CERTIFICATE TO OPERATE  
10 A CHILD CARE GROUP HOME OR A LICENSE TO OPERATE A CHILD CARE FACILITY FOR THE  
11 CARE OF CHILDREN IN THIS STATE OR OTHER STATE OR HAS HAD A LICENSE TO OPERATE  
12 A CHILD CARE FACILITY OR A CERTIFICATE TO OPERATE A CHILD CARE GROUP HOME  
13 REVOKED FOR REASONS THAT RELATE TO THE ENDANGERMENT OF THE HEALTH AND SAFETY  
14 OF CHILDREN.

15 C. THE APPLICANT OR LICENSEE SHALL NOTIFY THE DEPARTMENT WITHIN THIRTY  
16 DAYS AFTER THE ELECTION OF ANY NEW OFFICER OR DIRECTOR OR OF ANY CHANGE IN  
17 THE CONTROLLING PERSONS AND SHALL PROVIDE THE DEPARTMENT THE NAME AND  
18 BUSINESS OR RESIDENTIAL ADDRESS OF EACH CONTROLLING PERSON AND AN AFFIRMATION  
19 BY THE APPLICANT THAT NO CONTROLLING PERSON HAS BEEN DENIED A CERTIFICATE TO  
20 OPERATE A CHILD CARE GROUP HOME OR A LICENSE TO OPERATE A CHILD CARE FACILITY  
21 FOR THE CARE OF CHILDREN IN THIS STATE OR ANOTHER STATE OR HAS HAD A LICENSE  
22 TO OPERATE A CHILD CARE FACILITY OR A CERTIFICATE TO OPERATE A CHILD CARE  
23 GROUP HOME REVOKED FOR REASONS THAT RELATE TO THE ENDANGERMENT OF THE HEALTH  
24 AND SAFETY OF CHILDREN.

25 D. EACH APPLICANT OR LICENSEE SHALL DESIGNATE AN AGENT WHO IS  
26 AUTHORIZED TO RECEIVE COMMUNICATIONS FROM THE DEPARTMENT, INCLUDING LEGAL  
27 SERVICE OF PROCESS, AND TO FILE AND SIGN DOCUMENTS FOR THE APPLICANT OR  
28 LICENSEE. THE DESIGNATED AGENT SHALL BE ALL OF THE FOLLOWING:

- 29 1. A CONTROLLING PERSON.  
30 2. A CITIZEN OF THE UNITED STATES OR A LEGAL RESIDENT ALIEN.  
31 3. A RESIDENT OF THIS STATE.

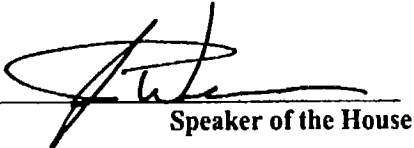
APPROVED BY THE GOVERNOR APRIL 19, 2001.

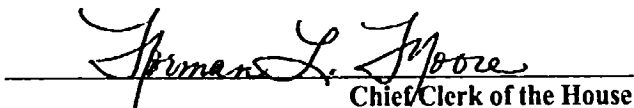
FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2001.

Passed the House April 09, 20 01,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

  
Speaker of the House

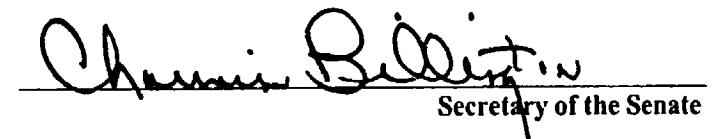
  
Chief Clerk of the House

Passed the Senate January 24, 20 01,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

  
President of the Senate

  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

           day of           , 20           ,

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

          , 20           ,

at            o'clock            M.

            
Governor of Arizona

S.B. 1067

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this            day of           , 20           ,

at            o'clock            M.

            
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 16, 20 01,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

Norma Lowe  
President of the Senate  
Norma Lowe  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of April, 20 01,

at 2:59 o'clock P M.

Sandra Chan  
Secretary to the Governor

APPROVED THIS 19 day of

April, 20 01,

at 2:15 o'clock P M.

Janet Lee  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of April, 20 01,

at 12:55 o'clock P M.

Betty Bayless  
Secretary of State

S.B. 1067